

Law of the Sea: Conference, Treaty, Impact

Keith A. Eddins, University of Oregon
and Oak Hill School (Eugene)

Law of the Sea

- History
- Treaty
- Present
 - Future?
- Arctic Issues



UNCLOS I (1956-58)

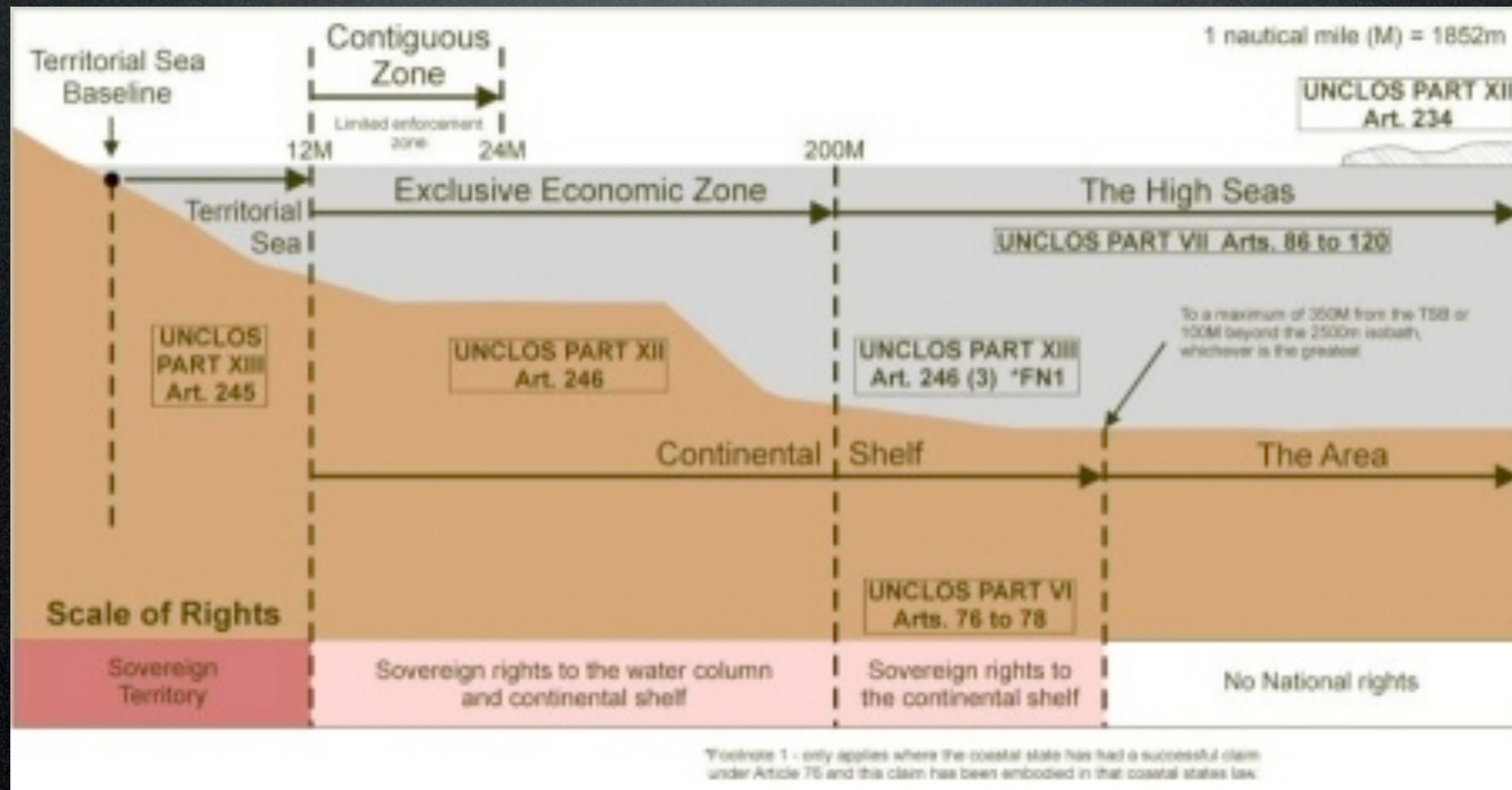
- Convention on the High Seas (1958/1964)
- Convention on the Territorial Seas (1958/1964)
- Convention on the Continental Shelf (1958/1962)
- Convention on Fishing and Conservation of Living Resources of the High Seas (1958/1966)

UNCLOS II (1960)

- Sought to resolve ambiguities in 1958 conventions, including:
 - Breadth of territorial wars, and
 - Dispute resolution mechanisms.
- Failed to reach any agreements.
- Arvid Pardo, Malta (1967): Peaceful usage, environmental protection, and 'common heritage' concept.

UNCLOS III (1973-82)

- Signed December 1982.
- Defines the oceans in two distinct ways:



UNCLOS III (cont.)

- Innocent passage and transit passage rights.
- Archipelagic waters.
- Landlocked states.
- Environmental protections.
- Scientific research.
- IMO and IWC roles.



Strait of Gibraltar

UNCLOS III (cont.)



- International Seabed Authority (Kingston) governs & regulates:
 - Prospecting;
 - Exploration;
 - Environmental responsibilities;
 - Confidentiality; and
 - Dispute resolution.
- “The Enterprise”
- Endowment Fund

U.S. Objects & Rejects

- Presidents Nixon, Ford, and Carter supported UNCLOS.
- President Reagan objected & rejected:
 - Common heritage (NIEO/NWO fears).
 - Seabed mining (profits and 'redistribution').
 - Security (threat to freedom of navigation)
- Compliance with most aspects, but not legally binding.



‘Common Heritage’

- ‘Common Property’?
- Principal elements:
 - No sovereign claims;
 - Peaceful use;
 - Shared management; &
 - Shared benefits.
- Models:
 - Outer Space Treaty (1967).
 - Antarctic Treaty (1971)



Resurrected, 1994

- LOS Treaty comes into force (Guyana = 60th member).
- U.S. seeks 'Implementation Agreement' covering:
 - Technology transfer;
 - Training of 'Enterprise' personnel;
 - Dispute resolution; and
 - Decision-making.
- Clinton signs UNCLOS (but signature isn't ratification).



Stymied, 1994-2014



Sen. Jesse Helms (R - NC)

- Sen. Jesse Helms, SFRC Chair, 1994-2003: Prevented any vote.
- Sen. Richard Lugar and President George W. Bush tried to ratify, but without success.
- Sen. John Kerry and President Barrack Obama tried to ratify, but without success.

Anti-UNCLOS Arguments

- Loss of sovereignty (general distrust of UN).
- Seabed mining fees = redistribution of wealth (into NWO).
- Environmental protections represent anti-free market 'agenda' (or something).
- U.S. security threatened (e.g., intelligence gathering and submarines)



Persuasive rebuttals, but...



Business leaders say

Ratify Law of the Sea.

Until the U.S. Senate ratifies the Law of the Sea Treaty, our country has no seat at the table for a wide range of decisions that profoundly affect our economic interests, and American companies are declining to pursue major resource opportunities beyond our 200-mile limit because of the legal risks. Business leaders agree we need this measure now ...

TO STRENGTHEN OUR ECONOMY

"U.S. businesses from shipping to telecommunications to offshore energy production cannot plan and invest as needed without the legal certainty that comes with Law of the Sea Treaty ratification. The stakes are huge for our whole economy."

Thomas J. Donohue, President and CEO, U.S. Chamber of Commerce

TO ACCESS OFFSHORE RESOURCES

"America's oil and natural gas industry needs the certainty and predictability provided by the Law of the Sea Convention to continue providing the energy that keeps our nation and our economy moving forward."

Jack N. Gerard, President and CEO, American Petroleum Institute

TO CREATE AMERICAN JOBS

"Right now China controls more than 95 percent of our rare earth supply. Increased access to these minerals will make manufacturers in the U.S. more competitive and support jobs, which is why the Senate needs to ratify the Law of the Sea Treaty now."

Jay Timmons, President and CEO, National Association of Manufacturers

See who else supports Law of the Sea at
RatifyTheTreatyNow.org



- Sovereignty arguments ignore other conventions, customary international law; UNCLOS would confirm and codify U.S. legal preferences and positions.
- Business entities such as U.S. Chamber of Commerce, American Petroleum Institute see net gains, support ratification.
- DOD, Joint Chiefs of Staff, U.S. Navy, and U.S. Intelligence Community see multiple advantages, support ratification.
- GOP/Tea Party objections prevail.

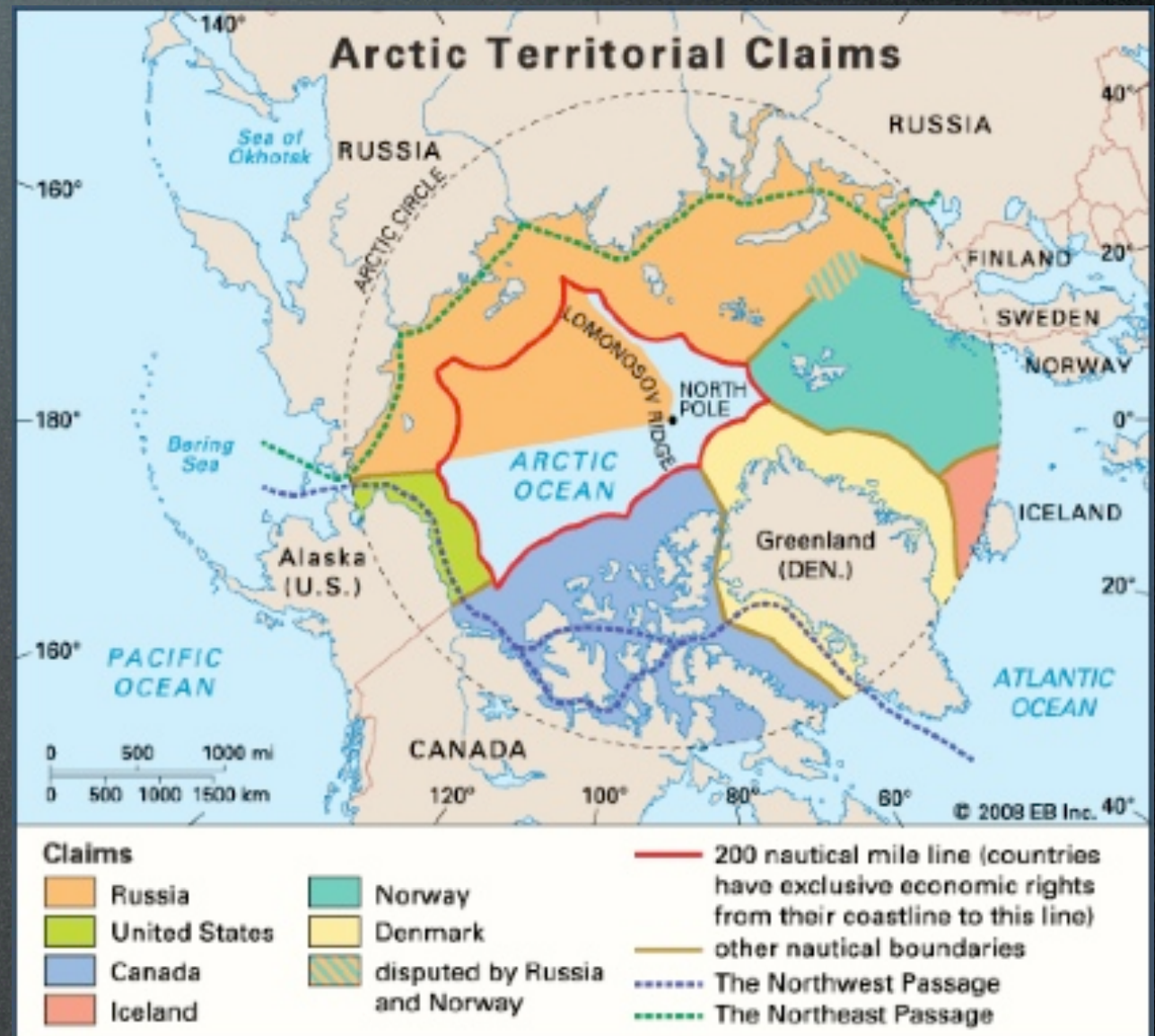
Arctic LOS Issues

- Territorial claims:
 - Russian.
 - Others.
- Economic claims:
 - Russian.
 - Others.
- Navigation routes:
 - Northern Route.
 - Northwest Passage.
- Security concerns.



Arctic Territorial Claims

- Central Arctic Ocean:
 - Lomonosov Ridge: part of the continental shelf?
 - Russia has most to gain, but Denmark and Canada also in the mix.
- 1990 Bering Sea Treaty (U.S.-Russia, but Duma hasn't ratified).
- Denmark-Canada; Canada-U.S.
- Commission on the Limits of the Continental Shelf: claims on hold, pending further mapping and scientific determination.



Arctic Economic Claims



- Offshore oil and gas:
 - Drilling rights; and
 - Pollution prevention and clean-up.
- Mineral exploration.
- Fishing.
- Shipping...

Arctic Transit Options

- Northern Sea Route
 - Five months/year
 - Eventually year-long?
- Northwest Passage
- Central Arctic Shipping Route?
- China's interests?



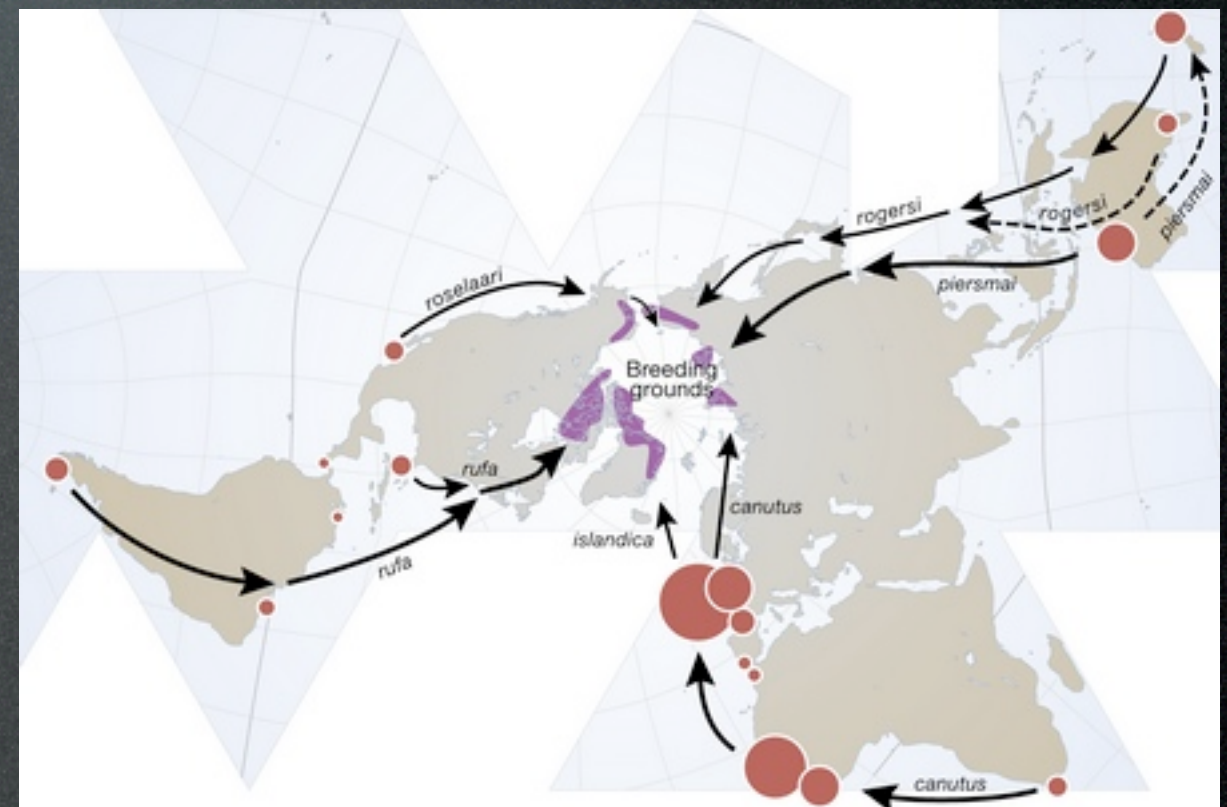
Arctic Security Concerns



- Long-time hiding ground for submarines.
- ‘Over the Pole’ = quickest route for bombers, missiles.
- Significant conventional importance, as well.
- Are all Arctic issues -- political, economic, scientific -- inseparably linked to military or intelligence concerns?

Arctic Council

- Created 1996 by Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and U.S.
- Primary focus:
 - Sustainable development;
 - Environmental protection; and
 - Indigenous peoples.
- 2011 = Arctic Search and Rescue Agreement.



Migratory Birds